

APPEAL NO. 021143  
FILED JUNE 21, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 5, 2002. The hearing officer resolved the issues before him by deciding that the appellant/cross-respondent (claimant) had not sustained a compensable injury on \_\_\_\_\_, and thus did not have resultant disability. The hearing officer further determined that the employer did not tender a bona fide offer of employment to the claimant. The claimant appealed the injury and disability determinations on sufficiency grounds, and the respondent/cross-appellant (carrier) appealed the determination that the employer had not tendered a bona fide offer of employment to the claimant. The carrier also responded to the claimant's appeal, seeking the affirmance of the hearing officer with respect to the injury and disability determinations.

DECISION

We affirm.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on \_\_\_\_\_. The claimant testified that she injured her back while lifting large garbage bags full of leaves and twigs and placing them into a truck. The claimant presented some medical evidence indicating some form of back injury. The carrier claimed that the claimant did not prove that any injury had occurred and that there were no witnesses to the alleged incident. The hearing officer is the sole judge of the weight and credibility to be given the evidence. Section 410.165(a). The hearing officer did not believe that the claimant met her burden of proof on this issue, as he did not find her to be credible. While the claimant did present evidence supporting a claim of injury, upon our review of the record, we conclude that the hearing officer's determination that the claimant did not sustain a compensable injury is supported by the record, and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 001360, decided July 27, 2000.

As we affirm the injury determination, we likewise affirm the hearing officer's decision that the claimant did not have disability as a result of the alleged incident of \_\_\_\_\_. By definition, the claimant must have sustained a compensable injury in order to have disability. See Section 401.011(16).

In addition, the hearing officer did not err in determining that the employer did not tender a bona fide offer of employment to the claimant. The record supports the hearing officer's finding that the claimant never received a bona fide offer of employment in writing from the employer, as required by Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 129.6 (Rule 129.6).

We affirm the hearing officer's decision and order.

According to information provided by the carrier, the true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert W. Potts  
Appeals Judge